

REMARKS

The Examiner has restricted the application into seventeen (17) species broken down as follows:

I. Species 1 - Claim 44 drawn to a behavior of interest that comprises holding concentrated positions in a single security;

II. Species 2 - Claim 45 drawn to a behavior of interest that comprises holding concentrated positions in low-priced securities;

III. Species 3 - Claims 46 and 47 drawn to a behavior of interest that comprises abusing auto-execution systems;

IV. Species 4 - Claim 48 drawn to a behavior of interest that comprises marking the close;

V. Species 5 - Claim 49 drawn to a behavior of interest that comprises making improper short sales;

VI. Species 6 - Claims 50 and 51 drawn to a behavior of interest that comprises making cross-trades away from the market;

VII. Species 7 - Claim 52 drawn to a behavior of interest that comprises encouraging orders by marking them as unsolicited;

VIII. Species 8 - Claim 53 drawn to a behavior of interest that comprises encouraging short-term holding;

IX. Species 9 - Claim 54 drawn to a behavior of interest that comprises soliciting orders but marking them as unsolicited;

X. Species 10 - Claim 55 drawn to a behavior of interest that comprises shadowing a customer's account;

XI. Species 11 - Claim 56 drawn to a behavior of interest that comprises front-running;

XII. Species 12 - Claim 57 drawn to a behavior of interest that comprises trading on insider information;

XIII. Species 13 - Claim 58 drawn to a behavior of interest that comprises making large deposits;

XIV. Species 14 - Claim 59 drawn to a behavior of interest that comprises rapid switching of mutual funds;

XV. Species 15 - Claim 60 drawn to a behavior of interest that comprises disproportionate allocation of IPO shares;

XVI. Species 16 - Claim 61 drawn to a behavior of interest that comprises unfair allocation of block trades to subaccounts of the investment advisor; and

XVII. Species 17 - Claim 62 drawn to a behavior of interest that comprises maintenance of concentrated positions in a subaccount of the investment advisor.

Applicant provisionally elects, with traverse, Species 14 as defined by claim 59, directed to a behavior of interest that comprises rapid switching of mutual funds.

Applicant respectfully submits that the search for Species 1-17 will substantially overlap because each is directed to a behavior of interest indicative of a risk to a brokerage or its investors. Therefore, such searches can be concurrently performed and the Examiner will not be seriously burdened by searching and considering the presently filed claims. Accordingly, Applicant respectfully requests withdrawal of the Restriction Requirement.

By this election, Applicant does not admit, nor does Applicant waive the right to argue against the Examiner's statement that the species are patentably distinct at a later date. Applicant

expressly reserves the right to present the claims of Species 1-13 and 15-17, or other claims, in one or more divisional, continuation, or continuation-in-part applications at a later date.

CONCLUSION

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment and Response, or credit any overpayment, to deposit account no. 50-0436.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JMS', is written over the printed name.

James M. Singer
Registration No. 45,111

Pepper Hamilton LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219
Telephone: 412.454.5000
Facsimile: 412.281.0717
Date: February 4, 2009